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JMS/BPH/sjh
February 12, 2008



PATENT APPLICATION
Docket No.: 3851.1006-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Allan McCarty and Steve Titus

Application No.: 09/649,473 (ABANDONED) Group: 3711

Filed: August 28, 2000 Examiner: Mark S. Graham

Confirmation No.: 8419

For: BILLIARD CUE

Date: February 12, 2008 Express Mail Label No. EV 215906128 US

PETITION UNDER 37 C.F.R. §1.182 OR §1.183
REQUESTING ENTRY OF AMENDMENT

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This Petition is being filed to request entry of an amendment to the specification of the subject patent application. The undersigned recognizes that the application is currently abandoned. However, amendment of the application is necessary to perfect the priority claim under 35 U.S.C. § 119 and § 120, and preserve the right to claim priority through the subject application in subsequent pending applications (Application No. 10/616,820, filed July 10, 2003 and Application No. 10/910,011, filed August 3, 2004).

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The subject application, now abandoned, was filed by Applicant's prior counsel under 35 U.S.C. § 111 and 37 C.F.R. § 1.53(b) on August 28, 2000, with the following Cross-Reference to Co-Pending Application paragraph:

This application is a continuation and a continuation-in-part of co-pending U.S. Patent Application serial numbers 08/825,249, filed March 27, 1997 and 09/200,244 filed November 25, 1998, the contents of both of which are incorporated herein in their entirety.

(Specification at page 1, lines 4 through 7)

Recently, the files of pending U.S. Patent Application Nos. 10/616,820 and 10/910,011 and their priority applications, including the subject application, were transferred to this firm. As a result of a review of these files, the undersigned became aware that the priority statement in the subject application is incomplete in failing to recite the priority applications preceding the applications to which priority is claimed. Accordingly, the Amendment filed concurrently herewith directs amendment of the specification of the subject application to contain the application number of the priority application, as required by former 35 U.S.C. §§ 119 and 120 and former 37 C.F.R. § 1.78(a)(2), which are applicable to the subject application.

This petition can and should be granted because, as stated by the court in Sampson, “[a] reading of [35 U.S.C.] § 120 makes it clear that an amendment may be entered in an abandoned application for purposes other than prosecution.” Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136, 137 (D.D.C. 1976) (Authorizing amendment of the related applications paragraph of an abandoned intermediate application to perfect a priority claim in a reissue application).

Entry of the concurrently filed Amendment is respectfully requested in order to perfect the priority claim of the subject application, and to permit Applicants to claim priority in pending U.S. Patent Application Nos. 10/616,820 and 10/910,011 through the subject application. The PTO is also requested to issue a Corrected Filing Receipt showing the priority data claimed by Applicant.

In accordance with 37 C.F.R. § 1.182, a check in the amount of \$400.00 in payment of the petition fee under 37 C.F.R. § 1.17(f) is enclosed herewith.

To the extent that it may be necessary, please consider this paper as a Petition under either 37 C.F.R. §1.182 or § 1.183. Authorization to charge any deficiency or credit any

overpayment in the fees that may be due in this matter, including any fees under 37 C.F.R. § 1.17(f), to Deposit Account Number 08-0380 is hereby granted. A copy of this letter is enclosed for accounting purposes.

The Patent Office is invited to contact the undersigned if they feel that a telephone conference would expedite resolution of this matter.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

James M. Smith

Registration No. 28,043

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: 